



IN REPLY REFER TO:

Superintendent

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
LAGUNA AGENCY
P.O. BOX 1448
LAGUNA, NEW MEXICO 87026

RECEIVED

NOV 07 1985

PUEBLO OF LAGUNA
GOVERNOR'S OFFICE

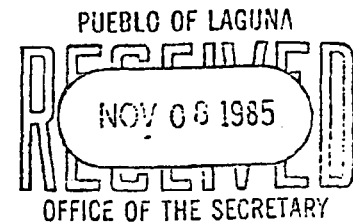
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Memorandum

To: Area Director

From: Superintendent

Subject: USGS Study - Village of Pagate



Mr. Eugene C. Tidball, General Attorney for the Atlantic Richfield Company, wrote this office on October 17, 1985, regarding activities being conducted by Mr. Ken King of the USGS in his survey and study of the effects of the mining operations upon the structures in the village of Pagate. A copy of Mr. Tidball's letter was sent directly to your office.

Due to the nature of Mr. Tidball's concerns, inferences, and allegations, I do not feel that it is appropriate for me to respond directly. I wish to defer to you the determination as to whether a response is warranted.

For your information, events surrounding this matter occurred as follows:

1. May 1985. By telephone call, Mr. Dick Bornemann of the Bureau's Office of Energy and Minerals informed the Agency Superintendent that the BIA and USGS had formalized an agreement for the study of the effects of mining operations upon the structures in the village of Pagate. Further, that Mr. Ken King and his field crew would soon be in the Pagate area to commence their study. The Pueblo was informed of this matter by letter to the Governor dated May 28, 1985, and its assistance sought in obtaining necessary permission from the Anaconda Company for Mr. King and his crew to enter the mine area. The same information was requested from them for Mr. King to conduct his work. Permission was granted by the parties concerned.
2. Week of June 24, 1985. Ken King and his crew were on site. Activities included test blasting, recording of test, survey of homes, and meeting with village residents.
3. October 4, 1985. Received a letter from Kenneth King advising that he would be returning to Pagate on or about

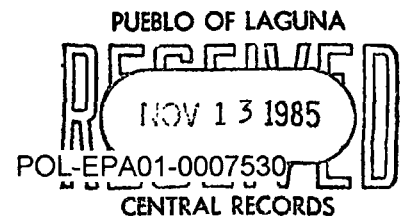
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October 18, 1985, through October 25, 1985, and presenting information of activities to be conducted (copy attached).

4. October 8, 1985. I wrote a letter to the BLM informing them of Mr. King's return to Paguate, the work that he intended to perform, and requested permission for Mr. King and his crew to enter the mine area (copy attached). I provided to the Pueblo a copy of Mr. King's letter as a means of keeping it informed of the progress and events of the study.
5. Mr. John Andrews of the BLM called subsequent to receipt of my request of October 8, 1985, and advised that permission had been granted for Mr. King and his crew to enter the mine area. It was agreed that entry would be made by use of the gate key in my possession.
6. October 17, 1985. Mr. Ken King arrived at the Laguna Agency to pick up the key and provide additional details of his intended activities. Mr. King was informed that very heavy rainfalls had occurred in recent days and that the roads in the mine area were probably impassable.

Mr. King later visited the mine area and determined that the ground was too muddy to travel on. An alternate plan for test blasting had to be developed.

7. October 21, 1985. Because Mr. King's crew and machinery were not able to enter the pit area, holes for the test shots were drilled outside of the mine area immediately north of the North Paguate Pit. Recording instruments were monitored throughout the village. Blasting was completed on this date. As the blasting took place, some local residents were asked to see if they could hear the test shots and/or feel any vibration which might be caused by the blast. Each person reported that he/she neither heard the shots nor felt the vibrations. This is verified by the Laguna Agency Administrative Officer who was assigned to accompany Mr. King and his crew during the course of their work within the village.
8. October 22, 1985. Testing to determine natural frequencies, damage survey of selected homes, and other data-gathering activities continued throughout the day.
9. October 23, 1985. Mr. King and his crew departed from Albuquerque to Denver.

Atlantic Richfield's assertion that the work being conducted by Mr. King is in preparation for and in aid of litigation, and has as its purpose the

gathering of information to be used either by individual tribal members or by the Tribe in suing Anaconda for alleged blast damage is not valid. Anaconda officials have been aware since the early 1950s of the concern of village residents regarding possible damage of their homes. In 1960, the Company sought an expansion of its lease area to include the area now referred to as the North Paguate Pit. Expansion of the lease area to accommodate the Company's request received strong objections by the village residents primarily out of concern for damage already done to their homes by the constant and heavy blasting carried on at the Jackpile pit and fear of even greater damage as a result of the mining operations being so close to the village. Anaconda offered to and was subsequently authorized to conduct a visual survey of each structure in the village and to record its state of condition in order that possible damage could be determined in future years.

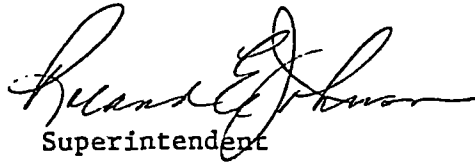
Following the survey which took place during 1961, the Company established a crew which had as a primary task, the repair of homes in the village. Repairs were provided free of cost to the homeowner only when the Company deemed that it had responsibility for making such repairs. All other work was at the expense of the homeowner. As has been pointed out by Mr. King and others, much of the repairs made by the Company were superficial, inadequate, or inappropriate.

Mr. Tidball has advised that Anaconda may be forced to reconsider its position to undertake a reclamation effort if the Bureau is going to enter the leased lands and "... cause damage to the Village or the integrity of the pit walls, ...". If the Company feels so strongly about the effects of any type of blasting, then, it too should refrain from the use of explosives at any time. On October 30, 1985, I received a phone call from Mr. John Andrews of the BLM office informing me that Mr. Meade Stirland of the Anaconda Company had called to inform him that a Company crew would be using dynamite charges to clear debris from a culvert on the Rio Paguate.

Mr. Tidball's contention that the lapse of time since the cessation of mining would nullify the results of any present blast damage investigation is boldly presumptuous. I believe that the attached description of work to be accomplished by Mr. King and his colleagues, also experts in the field of study, clearly indicate the processes which can be and will be performed to clarify causation of the damages.

As regards the Federal government's involvement in the study being conducted by Mr. King, I recall that it was the consensus of the lead EIS Task Force agencies that further pursuit of the structural damage issue would be left to the Bureau and the Pueblo, since the matter would not be considered a reclamation issue. Based upon preliminary information received from Mr. King, it appears that his investigation to date suggests that the structures have been adversely affected by the mining operations. It is, therefore, imperative that the Bureau continue to support and promote the study which is in progress.

Should you have any questions concerning this matter, please contact me at (505) 552-6001 or 552-6002.


Superintendent

Attachments

xc: Governor, POL